



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

July 8, 2022

Ms. Jessica Marsh  
Deputy Director  
Texas Civil Commitment Office  
4616 West Howard Lane, Building 2 Suite 350  
Austin, Texas 78728

OR2022-19605

Dear Ms. Marsh:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 956161 (TCCO ID PIA 2022-0012).

The Texas Civil Commitment Office (the "TCCO") received a request for information pertaining to certain policies and procedures that were in place during a stated time period.<sup>1</sup> The TCCO argues, pursuant to section 552.028 of the Government Code, it need not comply with the request for information. Alternatively, the TCCO claims the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the submitted arguments and reviewed the submitted information.

Section 552.028 of the Government Code provides, in part, the following:

- (a) A governmental body is not required to accept or comply with a request for information from:

---

<sup>1</sup> You state the TCCO sought and received clarification of the request for information. *See* Gov't Code § 552.222(b) (stating if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used); *City of Dallas v. Abbott*, 304 S.W.3d 380 (Tex. 2010) (holding when governmental entity, acting in good faith, requests clarification of unclear or overbroad request for public information, ten-business-day period to request attorney general opinion is measured from date request is clarified or narrowed).

(1) an individual who is imprisoned or confined in a correctional facility; or

(2) an agent of that individual, other than that individual's attorney when the attorney is requesting information that is subject to disclosure under [the Act].

(b) This section does not prohibit a governmental body from disclosing to an individual described by Subsection (a)(1), or that individual's agent, information held by the governmental body pertaining to that individual.

Gov't Code § 552.028(a)-(b). Although you assert the requestor is acting on behalf of an incarcerated individual, upon review, we find you have failed to demonstrate the request for information was submitted by an agent of an individual who is imprisoned or confined in a correctional facility. Thus, section 552.028 of the Government Code is not applicable in this instance, and we will address your remaining argument against disclosure of the submitted information.

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. Section 552.101 encompasses section 841.0833 of the Health and Safety Code, which reads as follows:

(a) The [TCCO] shall develop procedures for the security and monitoring of committed persons in each programming tier.

(b) Information regarding the security and monitoring procedures developed under Subsection (a) is confidential and not subject to disclosure under [the Act].

Health & Safety Code § 841.0833. The TCCO states the information it indicated consists of information regarding procedures for the security and monitoring of a committed person. Upon review, we agree the information at issue consists of information related to the security and monitoring of a committed person, which is made confidential under section 841.0833(b). Accordingly, the TCCO must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 841.0833(b) of the Health and Safety Code.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable

charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Erin Groff  
Assistant Attorney General  
Open Records Division

EMG/mo

Ref: ID# 956161

c: Requestor